84TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2431

AMENDING THE ATOMIC ENERGY ACT OF 1954 TO PERMIT THE NEGOTIATION OF COMMERCIAL LEASES AT ATOMIC ENERGY COMMUNITIES

JUNE 25, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DEMPSEY, from the Joint Committee on Atomic Energy, submitted the following

REPORT

[To accompany H. R. 11926]

The Joint Committee on Atomic Energy, having considered H. R. 11926, an original committee bill, to amend the Atomic Energy Act of 1954 to permit the negotiation of commercial leases at atomic energy communities, and for other purposes, do unanimously report favorably thereon, and recommend the bill do pass.

BACKGROUND

The atomic energy products at Oak Ridge, Tenn., Richland, Wash., and Los Alamos, N. Mex., are carried on in towns which, as of this moment, are all owned by the Federal Government. These towns comprise residences for their employees at the projects and commercial shopping centers. Under the Atomic Energy Community Act of 1955 a program was set up for the sale of the properties in Oak Ridge, Tenn., and Richland, Wash., to the citizens of the towns. The actual sales program at these two towns, which has been in preparation for nearly a year, has not yet been officially started.

Meanwhile, there are commercial leases in these towns and in the town of Los Alamos, N. Mex., which have not yet been brought under the terms of the Atomic Energy Community Act of 1955, which are expiring. The Commission is not renegotiating leases of these people who have formed an integral and beneficial part of the communities, but instead is reletting the concessions on a straight advertised-bid basis. In coming to the Commission communities to start needed commercial enterprises at those communities, the commercial lessees

uprooted themselves from their former surroundings and have now made major contributions to the success of these three new towns.

In letting these renewals out on a strictly bid basis, the Commission states that it is bound by the strict requirements of the advertising statutes, and therefore cannot consider the desirability of continuing the growth of the citizens in these towns.

The authority to operate and maintain these towns is incorporated in the chapter on the general authority of the Commission in subsection 161 e. This section now provides:

> SEC. 161. GENERAL PROVISIONS.—In the performance of its functions the Commission is authorized to—
>
> e. acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of section 174;

The reference to section 174 is merely a reference to the section requiring that the Attorney General approve title to real estate acquired under the act. Most of the powers of the Atomic Energy Commission are based on declarations, findings and purposes set forth in sections 1, 2, and 3 of the act, most of which relates to the common defense and security. The operations of these towns are indeed vital to the defense of our country in doing the research and manufacturing which is needed for atomic weapons. From these towns, too, spring the development of the peaceful uses of atomic energy. It is of the utmost importance to this program that the citizens of the towns not suffer undue dislocations. Thus, in the Atomic Energy Community Act of 1955, in establishing a program for the sales of the communities of Oak Ridge and Richland to the residents, section 11 c finds:

> To that end, it is desired at each community to—
>
> c. provide for the orderly sale to private purchasers of property within those communities *with a minimum of dislocation.*

Section 12 a of the same act has the finding:

> *The continued morale of project-connected persons is essential to the common defense and security of the United States.*

Section 13a states as a purpose of the act that it is to provide for—

> a. the maintenance of conditions which will not impede the *recruitment and retention of personnel essential to the atomic energy program;*

These purposes and policies are further amplified in the section of the Atomic Energy Community Act relating to the priorities for the sale of property. In this section, the Commission is required to

establish rules and regulations for priorities for the sale of the property based on:

> (1) The retention and recruitment of personnel essential to the atomic energy program;
> (2) The minimization of dislocation of persons within the community * * *.

The local offices of the Atomic Energy Commission at each of the three communities are thoroughly acquainted with how the commercial lessees have been serving the communities and the extent to which the lessees have contributed to the life in those communities. It is proposed in this bill to give the Commission the authority to consider all of these contributions in deciding on the lessee while the Commission still owns the towns.

In a field which is less important to the national defense than atomic energy the Congress has permitted the negotiation of commercial leases. The Secretary of the Interior has given the following statutory grant with respect to entering into leases for commerical services on lands under the jurisdiction of the National Park Service:

> He may also grant privileges, leases and permits for the use of land for the accomodation of visitors in the various parks, monuments or other reservations, provided for under section 2 of this title, but for periods not exceeding twenty years; * * * and provided further, that the Secretary of the Interior may grant said privileges, leases and permits and enter into contracts relating to same with responsible persons, firms or corporations without advertising or securing competitive bids: * * *

The policies of the National Park Service are set forth in the statement of October 13, 1950.

In order to encourage concessionaires to make contributions to the communities, to remain in the communities, and to put investments into their stores, their trade and the community, the Joint Committee recommends the passage of this bill. Under its provisions the Commission may negotiate leases based not only on the return from the leases to the Government, but also on quality and type of services required by the residents—and in some instances, such as drug stores, the services required and 24-hour availability at the community—the experience of the concession applicant at this community or in its immediate area, the ability of the applicant to meet the needs of the community and the overall contributions he has made, or will make, to the community.

We are still providing for obtaining competitive proposals, but provide reasonable flexibility from formal advertising requirements.

The letter from the Atomic Energy Commission setting forth its position in not being able to base its consideration of the leases on these points is set forth below:

MARCH 8, 1956.

Hon. JOHN J. DEMPSEY,
Chairman, Subcommittee on Communities,
Joint Committee on Atomic Energy,
Congress of the United States.

DEAR MR. DEMPSEY: This letter will answer Mr. Norris' letter of December 15, 1955, asking the advisability of the Commission's general policy to advertise concessionaire leases upon expiration. It will also answer questions related to the Los Alamos situation which you raised in your telephone call to the Director of Military Application of January 4, and in your subsequent conference with Mr. Wampler and General Starbird on January 17. As a result of our subsequent discussion on this subject, the AEC has looked into the general policy question again. The following information is the result of that review.

In 1954 the Commission reviewed its policy with respect to leasing of concessions and decided that the terms of existing and future leases should be extended only for programatic reasons which support a conclusion that the extension by negotiation is necessary for the housing, health, safety, welfare of recreation of Commission and contractor personnel. The Commission's directives relating to the matter stated that negotiated extension was to be regarded as exception to the Commission's general policy of obtaining competition and that the programatic reason for any such exception must be clearly shown.

In reaching their policy decision, the Commission was influenced primarily by the general policy and practice of the Federal Government as exemplified by section 3709 of the Revised Statutes, which requires advertising for supplies and services. It was felt that the policy assured fair treatment to all interested members of the public and most favorable economic return to the Government for the facility and opportunity the Government provided. Additionally, it provided a means for meeting changing community needs (where Government facilities were limited) by bringing into existence higher priority types of services. The Chairman of the AEC forwarded the detailed statement of policy to the chairman of the JCAE by letter of January 29, 1954.

As to the Los Alamos situation, original leases under the Manhattan District and for several years thereafter were generally of short duration and renewed by negotiation. When the move to permanent areas became possible and in recognition that lessees would be involved in added expense if best service were to be provided, the Commission offered all incumbents extension to a lease of 10-year total duration. Thereafter, all accepted. At the present time, we have 40 major concessions leased at Los Alamos in Government facilities, all of a duration totaling 10 years. A large number are scheduled to expire in the next 2 years. The first of the 10-year expirations will be that of the Ferris Cleaners.

As General Starbird explained in the conference of January 17, various alternate solutions to that of readvertising the Ferris Cleaner lease have been proposed and investigated. As requested, I shall describe these briefly.

The first suggestion was that in view of the satisfactory service performed by the Ferris Cleaners, a negotiated extension be made.

As explained in my letter of December 22, the circumstances indicate no programatic necessity for negotiated extension. Other cleaners serve Los Alamos and could handle the load during any temporary interruption. Negotiation in this first case would naturally lead all concessionaires to expect similar treatment, and in fairness would have to be given.

The proposal was then reviewed from the point of view of recommending the Commission permit negotiation at Los Alamos for all lessees. Neither my staff nor I believed such a course should be followed. It would, of course, depart from the basic principle of competition which was the basis of the Commission's decision. It would preclude others interested in competing for the opportunities available at Los Alamos. In this connection, a very large number of individuals and concerns have expressed a desire to compete on expiration of present leases.

A proposal has been made that the present leaseholders be given credit for the good will and investment they have made and be retained if their bid after advertisement is sufficiently close to that of the high bidder. Such a procedure would be, in my opinion, impossible to administer fairly and could be objected to strenuously by those who have expressed a desire to compete in the future. Using the alternate approach of allowing negotiations after bid opening and awarding to incumbent if he then met the bid of the highest responsible bidder would lessen the interest of others in submitting a bid. Further, it would, to all intents and purposes, relieve the incumbent of the necessity of making an original bid to be entered in the competition to establish fair Governmental return.

You also asked that we comment on the price to be set on equipment taken over by a future lessee but owned by the former leaseholder. Specifically, the questions involved the advisability that AEC appraise the equipment's worth, and require the new tenant to pay the amount concerned. I feel that this action would be an unwarranted interference with the natural negotiation of the buyer and seller. The former lessee does, of course, have the right to remove his equipment if he so desires. On occasion such removal may not be desired, and there is the definite possibility that the owner may be willing to sell at a reduced price. On the other hand, if the equipment is needed by the new lessee for satisfactory operation and is in satisfactory condition, it normally would be to his advantage to pay a fair value to avoid the necessity of procuring and installing new equipment.

It is the AEC's policy to assure that any concessionaire show ability to handle adequately the promised service prior to his receiving an award. This is necessary so as to provide best services to the communities that support our technical programs. It is our policy also to assure that the concessionaire knows exactly what he will be furnished and what he is to expect of the Government, for only thus will he receive fair treatment and be able to program his operation and costs. Subject to meeting these two objectives, it is our further effort to assure maximum return for the Government's investment in the facilities concerned.

Under these circumstances, I consider I must reaffirm the earlier decision that concessions, upon completion of termination of the lease agreement, be readvertised for competitive bids.

For your information, we have been informed by the Los Alamos area office that although the Ferris Cleaners had a full year remaining on their lease, they gave the AEC a 60-day notice of termination on February 1, 1956, and indicated an intention to bid on the concession when it was advertised by the AEC.

Sincerely yours,

R. W. COOK,
Acting.
K. E. FIELDS,
General Manager.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill accompanying this report are shown as follows (new matter is printed in italics):

SEC. 161. GENERAL PROVISIONS.—In the performance of its functions the Commission is authorized to—

e. acquire such material, property, equipment, and facilities, establish or construct such buildings and facilities, and modify such buildings and facilities from time to time, as it may deem necessary, and construct, acquire, provide, or arrange for such facilities and services (at project sites where such facilities and services are not available) for the housing, health, safety, welfare, and recreation of personnel employed by the Commission as it may deem necessary, subject to the provisions of [section 174;] *section 174: Provided, however, that in the communities owned by the Commission, the Commission is authorized to grant privileges, leases and permits upon adjusted terms which are fair and reasonable to responsible persons to operate commercial businesses without advertising and without securing competitive bids, but taking into consideration, in addition to the price, and among other things (1) the quality and type of services required by the residents of the community, (2) the experience of each concession applicant in the community and its surrounding area, (3) the ability of the concession applicant to meet the needs of the community, and (4) the contribution the concession applicant has made or will make to the other activities and general welfare of the community;*

○